

1 KEKER & VAN NEST, LLP
JOHN W. KEKER - #49092
2 MICHAEL H. PAGE - #154913
710 Sansome Street
3 San Francisco, CA 94111-1704
Telephone: (415) 391-5400
4 Facsimile: (415) 397-7188

5 INTERTRUST TECHNOLOGIES CORPORATION
DOUGLAS K. DERWIN - #111407
6 JEFFERY J. McDOW - #184727
4800 Patrick Henry Drive
7 Santa Clara, CA 95054
Telephone: (408) 855-0100
8 Facsimile: (408) 855-0144

9 PENNIE & EDMONDS LLP
MICHAEL J. LYONS - #202284
10 300 Hillview Avenue
Palo Alto, CA 94304
11 Telephone: (650) 493-4935
Facsimile: (650) 493-5556

12 Attorneys for Plaintiff and Counter-Defendant
13 INTERTRUST TECHNOLOGIES CORPORATION

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16

17 INTERTRUST TECHNOLOGIES
18 CORPORATION, a Delaware corporation,
19 Plaintiff,

20 v.

21 MICROSOFT CORPORATION, a
Washington corporation,
22 Defendant.
23

24 AND COUNTER ACTION.
25
26
27
28

Case No. C 01-1640 SBA (MEJ)

Consolidated with C 02-0647 SBA

**INTERTRUST'S DISCLOSURES OF
ASSERTED CLAIMS AND
PRELIMINARY INFRINGEMENT
CONTENTIONS PURSUANT TO
PATENT LOCAL RULES 3-1 and 3-2**

('683, '193, '861, '721, '891, '900, '912, '019,
'876, '181, and '402 Patents)

1 Pursuant to the Court's August 8, 2003 Order, Plaintiff InterTrust Technologies
2 Corporation ("InterTrust") hereby submits its Disclosures of Asserted Claims and Preliminary
3 Infringement Contentions under Patent Local Rules 3-1 and 3-2 ("PLR 3-1 & 3-2 Disclosures")
4 to Defendant Microsoft Corporation ("Microsoft"). These PLR 3-1 & 3-2 Disclosures supercede
5 all previous PLR 3-1 and PLR 3-2 disclosures served by InterTrust in this case.

6 **PATENT LOCAL RULE 3-1: DISCLOSURE OF ASSERTED CLAIMS AND PRELIMINARY**
7 **INFRINGEMENT CONTENTIONS**

8 **(a) Asserted claims**

9 InterTrust currently contends that the Microsoft products identified herein infringe the
10 claims of U.S. Patents Nos. 6,185,683 B1 ("the '683 patent"); 6,253,193 B1 ("the '193 patent");
11 5,920,861 ("the '861 patent"); 6,157,721 ("the '721 patent"); 5,982,891 ("the '891 patent");
12 5,892,900 ("the '900 patent"); 5,917,912 ("the '912 patent"); 5,915,019 ("the '019 patent");
13 5,949,876 ("the '876 patent"); 6,112,181 ("the '181 patent"); and 6,389,402 B1 ("the '402
14 patent"), as identified in the attached claim charts. As discovery progresses, InterTrust may
15 determine that additional Microsoft products infringe the asserted patents and/or that Microsoft
16 infringes additional patent claims. InterTrust reserves the right to supplement and/or amend its
17 disclosures and infringement contentions.

18 **(b) Accused products**

19 InterTrust contends that various Microsoft products infringe the patent claims identified
20 in the claim charts attached hereto. Accused products are listed in Exhibit A hereto. Accused
21 products are listed in Exhibit A hereto, which is intended to encompass past, present, and future
22 product versions that include the accused features and/or functionality.

23 **(c) Claim charts**

24 InterTrust submits the attached claim charts based solely on information available to it to
25 date. Discovery is ongoing, and additional information is likely to be produced during
26 discovery. InterTrust therefore reserves the right to supplement and/or amend its infringement
27 assertions as discovery proceeds.
28

1 InterTrust contends that Microsoft infringes at least the claims of the '683, '193, '861,
2 '721, '891, '900, '912, '019, '876, '181, and '402 patents identified in the claim charts attached
3 hereto as Exhibits B and C:¹

4 **(d) Literal infringement and the doctrine of equivalents**

5 InterTrust contends that Microsoft infringes the claims of the '683, '193, '861, '721,
6 '891, '900, '912, '019, '876, '181, and '402 patents as specified in Exhibits B and C both
7 literally and under the doctrine of equivalents.

8 **(e) Priority from earlier applications**

9 InterTrust claims priority for the claims of the '891, '912, '683, '193, '019, '876, and
10 '402 patents-in-suit dating to application No. 08/388,107, filed February 13, 1995. InterTrust
11 claims priority for the claims of the '900 patent-in-suit dating to application No. 08/695,927,
12 filed August 12, 1996. InterTrust does not claim priority for the claims of the '721, '861, and
13 '181 patents-in-suit dating to any earlier application.

14 **(f) Reliance on InterTrust's own products**

15 InterTrust does not currently intend to rely on the assertion that its own Commerce and
16 Rights System products practice at least some of the claimed inventions of the '683, '193, '861,
17 '721, '891, '900, '912, '019, '876, '181, and '402 patents-in-suit to support its infringement
18 assertions against Microsoft.

19 **PATENT LOCAL RULE 3-2: DOCUMENT PRODUCTION ACCOMPANYING DISCLOSURE**

20 **(a) Documents re disclosure and/or offer of sale**

21 InterTrust is not currently aware of such documents other than the documents that have
22 previously been produced. See IT00017664-19168, IT00020866-21695, IT00021700-23578,

23 ¹ Exhibit B contains claim charts based upon publicly available or non-confidential sources.
24 Exhibit C contains additional claim charts referencing material designated as "Attorneys' Eyes
25 Only" by Microsoft, and is served under separate caption. No other information contained in
26 these disclosures is designated confidential by either party, and InterTrust does not object to
27 dissemination of this document, other than Exhibit C, to persons not permitted to view
28 confidential information in this case. For ease of reference, the claim charts attached hereto
include all claims previously disclosed by InterTrust, as well as new claims.
Numbering/lettering/bolding has been added to the text of each claim for convenience only, and
is not intended to alter, expand, or interpret the meaning of those claims. In instances where
infringement claims are illustrated by quotation or reference to Microsoft documents, those

1 IT00038608-43419.

2 (b) Documents re conception, reduction to practice, and/or design/development

3 InterTrust has produced nonprivileged documents concerning the conception, design,
4 development, and reduction to practice of the inventions disclosed in the patents-in-suit. See,
5 e.g., IT00000005-17261, IT00036207-38606, IT00041497-549. In addition, InterTrust has
6 produced voluminous archives of source code created in the course of its business, some of
7 which may constitute additional evidence of the conception, design, development, and reduction
8 to practice of its patented inventions. InterTrust is not currently aware of any other such
9 nonprivileged documents in its possession or control other than said source code and the source
10 code and documents that have been produced.

11 (c) Prosecution history of patents-in-suit

12 The prosecution histories of the patents-in-suit have previously been produced. See, e.g.,
13 IT00062350-67643, IT00070342-72434, FH00107455 – 107731, FH00113539-118857,
14 FH118866-121322.

15 Dated: September 2, 2003

KEKER & VAN NEST, LLP

17 By: 

18 MICHAEL H. PAGE
19 Attorneys for Plaintiff and Counter-Defendant
20 INTERTRUST TECHNOLOGIES
21 CORPORATION

22
23
24
25
26
27
28 references are intended to be exemplary only, and not limiting.